

**PORZIO, BROMBERG & NEWMAN, P.C.**

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Attorneys for Defendant E. I. DuPont De Nemours & Company

(RAC1922)

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

DONALD COLES, on behalf of himself and all  
others similarly situated,

Plaintiffs,

vs.

E. I. DuPONT De NEMOURS & COMPANY,

Defendant.

CIVIL ACTION NO.06CV3080 -RMB

**NOTICE OF REMOVAL**

**TO:** The United States District Court For the District of New Jersey

Defendant, E. I. DuPont De Nemours & Company, (hereinafter referred to as “DuPont”) a Delaware corporation with its principal place of business located at 1107 Market Street, Wilmington, Delaware, by and through its attorneys, Porzio, Bromberg & Newman, P.C., and pursuant to 28 U.S.C. §§ 1441 and 1446, hereby removes this New Jersey state court-filed civil action for the reasons stated below:

**A. Nature of the Civil Action**

1. DuPont is a defendant in a civil action entitled *Donald Coles v. E.I. DuPont De Nemours & Company* filed in the Superior Court of New Jersey, Chancery Division, General Equity Part, Salem County, bearing Docket No. C-16-06. Plaintiff, Donald Coles, commenced this action

by filing a complaint on or about June 14, 2006, with the Superior Court Clerk. The action is now pending in that court. A true copy of the Complaint is attached as Exhibit "A."

2. Plaintiff filed this class action seeking declaratory, injunctive and equitable relief, including medical monitoring and the treatment of residential drinking water delivered by the Pennsville Township Water Department and the Penns Grove Water Supply Company as a result of alleged findings of a chemical in local water supplies.

**B. Timing and Perfecting of Removal**

3. Plaintiff's counsel advises that it served a copy of the Summons and Complaint on DuPont at its Chambers Works plant as of this date, although neither its registered agent or corporate headquarters can confirm that this service occurred. Nonetheless, DuPont's counsel obtained a copy of the filed Complaint on June 16, 2006, from the Salem County Civil Division Clerk's Office.

4. Accordingly, this Notice of Removal is filed in the United States District Court for the District of New Jersey within the time allowed by 28 U.S.C. §1446(b) and/or applicable caselaw for removal of civil actions, that is within thirty (30) days after DuPont first received a copy of the Summons and Complaint demonstrating diversity of citizenship and within one (1) year of commencement of the action.

5. The documents attached hereto as Exhibit "A" represent the process and pleadings served upon DuPont in this action to date, as required by 28 U.S.C. §1446(a).

6. The United States District Court for the District of New Jersey is the district having jurisdiction over the place where the state court action is pending.

7. Upon filing of this Notice of Removal, defendant shall promptly provide written notice thereof to the Clerk of the Superior Court of New Jersey, Chancery Division, General Equity

Part, Salem County, and plaintiff's counsel, Philip Stephen Fuoco, Esq., and Shabel & DeNittis, P.C., as required by 28 U.S.C. §1446(d).

### **C.Diversity Jurisdiction**

8. DuPont is a citizen of the State of Delaware by virtue of the fact that it is incorporated in the State of Delaware and has its principal place of business in Wilmington, Delaware.

9. Upon information and belief acquired from the filed Complaint, plaintiff Donald Coles is a citizen of the State of New Jersey and resides in the Township of Pennsville, County of Salem, State of New Jersey.

10. The United States District Court has original jurisdiction over this case under 28 U.S.C. § 1332(d) (diversity of citizenship). By virtue of the provisions of 28 U.S.C. §1441(a), and in accordance with 28 U.S.C. 1446(b), this entire matter is one that may be removed to this Court.

11. This matter is pled as a class action law suit with claims of medical monitoring and other related claims, and the claims made are well in excess of the jurisdictional limit of \$5,000,000.00 for class actions under 28 U.S.C. § 1332(d).

### **Pending and Related Litigation Filed in the United States District Court for the District of New Jersey and Assigned to Judge Kugler and Magistrate Judge Donio**

12. The United States District Court already possesses jurisdiction over a matter captioned *Rowe v. DuPont*, Civil Action number 1:06-cv-01810-RBK-AMD, filed April 18, 2006, with similar if not identical causes of action and issues, allegations and relief being sought. Judge Kugler and Magistrate Judge Donio have been assigned that case. DuPont filed its answer on May 30, 2006 and an initial conference is currently scheduled on July 24, 2006.

WHEREFORE, Defendant DuPont hereby removes this civil action from the Superior Court of New Jersey, Chancery Division, General Equity Part, Salem County, to the United States District Court for the District of New Jersey.

PORZIO, BROMBERG & NEWMAN, P.C.  
Attorneys for Defendant  
E. I. DuPont De Nemours & Company

BY: /s Roy Alan Cohen, Esq.

ROY ALAN COHEN  
An Attorney of the Firm

Dated July 6, 2006